

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:11-CV-00250-F**

UNITED STATE OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
\$16,540.00 IN U.S. CURRENCY,)	
)	
Defendant.)	
_____)	

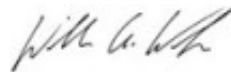
This cause comes before the Court upon the government’s motion to compel (DE-17) and motion for extension of time to complete discovery. (DE-18). The government states that claimant Dorothy Ellen Cunningham has refused to cooperate in discovery. Specifically, Cunningham has not responded to the government’s first set of interrogatories and request for production served March 22, 2012. According to the government, Cunningham’s failure to respond significantly impairs its ability to prosecute this case. As such, the government requests an order compelling full and complete responses from Cunningham within twenty days. The government also seeks to extend the deadline for discovery by ninety days.

Pursuant to the scheduling order entered February 29, 2012, the deadline for discovery in this case was July 12, 2012. The deadline for dispositive motions was August 13, 2012, and trial is set for January 3, 2013. As the Court informed the parties in its scheduling order, “[t]he Court needs about 90 days between the motion filing deadline and the trial to allow enough time for motions to become ripe, to be reached and ruled upon before trial.” The Court also cautioned the parties “not to be dilatory in pursuing discovery” and that “[m]otions for extensions of these

times are not favored if they would require a continuance of the trial.” Despite these admonitions, the government did not file its motions to compel discovery and extend deadlines until August 8, 2012. The government offers no explanation as to its delay in this matter, and none is apparent from the record. Instead, the government states that Cunningham’s delayed response has caused the discovery deadline to elapse. However, delay on Cunningham’s part did not prevent the government from filing its motions in a timely fashion. Notably, on July 5, 2012, counsel for Cunningham, John Keating Wiles, filed a motion to withdraw, stating that his client’s refusal to cooperate in the production of discovery prevented him from further representing her in this matter. Thus, as of July 5, 2012, the government was specifically on notice that Cunningham did not intend to respond to its discovery requests. Yet the government did not seek to compel her response or extend the discovery deadline until August 8, 2012, more than three weeks after the discovery deadline expired. The motions are therefore untimely and fail to state good cause for excusing the delay.

For these reasons, the motion to compel (DE-17) and motion for extension of time (DE-18) are DENIED.

DONE AND ORDERED in Chambers at Raleigh, North Carolina on August 27, 2012.



WILLIAM A. WEBB
UNITED STATES MAGISTRATE JUDGE